

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

Bail Appl..No. 4759 of 2007()

C.R.NO.18/04 OF KOLLAMKODE EXCISE RANGE
.....

: PETITIONER/2ND ACCUSED

MURALI KUMAR S/O. ARUMUGHAN,
KUMBURATHI VEEDU, KOLLAMPARAMBUDESOM,
POLPULLI VILLAGE, PALAKKADU.

BY ADV. SRI.S.GOPAKUMARAN NAIR

RESPONDENTS: COMPLAINANT

EXCISE CIRCLE INSPECTOR,
EXCISE CIRCLE OFFICE, CHITTOOR,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 13/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

B.A.No. 4759 of 2007

Dated this the 13th day of August, 2007

ORDER

The petitioner is the 2nd accused and he faces indictment in a prosecution under the Kerala Abkari Act. The crux of the allegations is that he was engaged in the activity of manufacture of illicit Indian Made Foreign Liquor. He was not allegedly present at the time when the seizure was effected. But the allegation is that the 1st accused was indulging in the objectionable activity at the instance of and as aided and abetted by the petitioner. Investigation is complete. Final report has already been filed. As the petitioner was not available, the case against him was split up.

2. This is the third time the petitioner is coming before this Court. By order dated 23.05.06 in CrI.M.C.1365/06 another Bench of this Court had directed that if the petitioner surrenders before the learned Magistrate on or before 31.05.06, the learned Magistrate must pass appropriate orders on his application for bail on the same date. Even earlier, by order dated 5th October, 2004 in B.A.No.5587 of 2004, this Court had rejected another anticipatory bail application submitted by the petitioner making identical observations without of course specifying the date for surrender. It is, in these circumstances, that

this third application for anticipatory bail has been filed by the petitioner. I do not find any circumstances which would justify this Court reconsidering the prayer for grant of anticipatory bail. There is no change in circumstances now. It is for the petitioner to appear before the learned Magistrate and seek regular bail in the ordinary course. I have no reason to assume that the learned Magistrate would not consider such application for bail on merits, in accordance with law and expeditiously. The identical directions issued earlier in B.A.No.5587 of 2004 is more than sufficient to protect the interests of justice.

3. In the result, this application for bail is, dismissed. However, I may hasten to observe that if the petitioner even now surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself, unless there be compelling reason.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-

